

**Communications Strategy**  
***Public Review – Draft Programmatic Environmental Impact Statement***  
***Mountaintop Mining/ Valley Fills***

**Key Points:** (1) The release of this draft EIS is one piece of a broad effort that the state and Federal agencies are pursuing together to improve coal-mining practices and the coal-mining regulatory process.

(2) The EIS demonstrates the commitment to the intent of the CWA by incorporating the functionality of aquatic resources into the “no net loss” principle, demanding decision-making based on sound science, incorporating watershed-wide considerations and collaborating with all agencies to clarify and implement policies.

(3) The EIS is a collaborative effort that combines the requirements of the Clean Water Act (CWA) and Surface Mining Control and Reclamation Act (SMCRA) to improve the regulatory process and enhance environmental protection for mountaintop mining/valley fill (MTM/VF) operations.

(4) By integrating CWA and SMCRA requirements, the agencies will provide a regulatory program that balances the nation’s energy needs and the protection of environmental resources in areas where MTM/VF operations take place. This EIS will contribute to better permit decisions on a watershed basis by coordinating data collection and environmental analyses by the agencies.

(5) For example, the EIS evaluates the requirements and procedures of the Corps’ nationwide permit (NWP) program. The EIS compares programmatic and procedural alternatives to the NWP program, and examines how NWP procedures have been implemented at the Corps’ districts to ensure that the adverse environmental effects of activities authorized by NWPs are no more than minimal, both individually and cumulatively

(6) The regulatory changes are expected to include more detailed mine planning and reclamation; clear and common regulatory definitions; development of impact thresholds, if feasible; guidance on best management practices; comprehensive baseline data collection; careful predictive impact and alternative analyses, including avoidance and minimization considerations; and appropriate mitigation to offset unavoidable aquatic impacts.

(7) The draft EIS will be available for public review and comment for 90 days, comments will be evaluated and revisions made, if necessary, then a final EIS will be published. Subsequently, each agency, as appropriate, will file a Record of Decision (ROD) and undertake actions, on an individual and collective basis, to minimize the adverse effects of MTM/VF on waters of the United States, fish and wildlife resources and other environmental resources.

(8) While this is a programmatic EIS, it meets NEPA requirements. A programmatic EIS differs from a project EIS by focusing on agency policies, guidance and decision-making processes to avoid, minimize or mitigate adverse environmental effects rather than specific actions to accomplish the same purposes on a site-specific basis.

(9) Through this programmatic EIS, the agencies are assessing existing procedures and developing an improved framework and processes for permitting MTM/VF operations based on ecological, economic and social factors. This EIS is the foundation for continued review of our permitting process and additional site specific or regulatory NEPA actions if required. As outlined in the EIS, a number of programmatic improvements have already been implemented.

(10) The geographic focus of the study area is large, about 12 million acres. The area encompasses most of eastern Kentucky, southern West Virginia, western Virginia and scattered areas of east Tennessee and contains about 59,000 miles of streams. Some of the streams flow all year, some flow part of the year, and some flow only briefly after a rainstorm or snow melt. Most are considered headwater streams that are ecologically important.

(11) The U.S. Department of Energy estimates that 28.5 billion tons of high quality (high heating value, low sulfur content) coal remain in the study area. This coal makes an important contribution to the energy needs of the nation and the economy. By providing jobs and tax revenue, coal mining is a key component of the regional economy. Almost all of the electricity generated in the area comes from coal-fired power plants.

(12) The agencies include the U.S. Army Corps of Engineers, U.S. Environmental Protections Agency, U.S. Fish and Wildlife Service, U.S. Office of Surface Mining and West Virginia Department of Environmental Protection.